## BEFORE THE STATE OF SOUTH CAROLINA DEPARTMENT OF INSURANCE

In the Matter of:	)
Kaiser Permanente Insurance Company	) SCDI File Number 107734
One Kaiser Plaza, 25 <sup>th</sup> Floor Oakland, CA 94612	Consent Order Imposing Administrative Penalty  )

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance (the Department) and Kaiser Permanente Insurance Company (KPIC), an insurer domiciled in California and licensed to transact insurance business the State of South Carolina.

S.C. Code Ann. § 38-7-60(3) (Supp. 2000) states in pertinent part "[t]he premium and other taxes imposed on insurers pursuant to Sections 38-7-20, 38-7-30, 38-7-40, 38-7-50, and 38-7-90 must be paid to the Director or his designee in quarterly installments on or before March first, June first, September first, and December first of each calendar year."

KPIC hereby alleges, and I find as fact, that although KPIC mailed its March 1, 2001 Quarterly (annual adjusted) Tax Return on or before March 1, the said return was not received by the Department until after March 1, thereby resulting in a late filing. KPIC had previously failed to make timely filings of quarterly tax returns with the Department, for which it was given a first offense warning letter and a fine. KPIC also alleges that it owed no premium taxes to the State of South Carolina on March 1, 2001, and that the only tax owed to the Department on that date was a retaliatory tax. KPIC further alleges that its prior failures to make timely filings of tax returns showing no premium tax liability, and its current failure to make a timely filing of its First Quarter 2001 Tax Return showing no premium tax liability, were completely unintentional. However, even an inadvertent or unintentional late filing of a tax return, mailed on the due date under the mistaken belief that a timely mailing constitutes a timely filing, which return shows no premium tax liability, but only a retaliatory tax liability, constitutes a violation of S.C. Code

Ann. § 38-7-60 (3) (Supp. 2000). Violations of that section can lead to the revocation of an insurer's certificate of authority to transact the business of insurance in the State of South Carolina, following a public hearing before an independent Administrative Law Judge, pursuant to S.C. Code Ann. §§ 38-7-60 (4) and 38-5-120 (A) (2) (Supp. 2000).

Prior to the initiation of formal administrative proceedings by the Department against KPIC, the Department's staff and KPIC agreed to submit the entire matter to me, along with specific recommendations for my summary decision. It is their recommendation that, in lieu of the Department's filing of a petition to revoke KPIC's certificate of authority to transact business as an insurer in the State of South Carolina, KPIC will, and hereby does, waive its right to a public hearing and hereby agrees to immediately submit an administrative penalty to the Department in the total amount of \$2,000.

After a thorough review of the matter, and after carefully considering the joint recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law that KPIC did violate S.C. Code Ann. §38-7-60(3) (Supp. 2000). In lieu of revoking KPIC's certificate of authority, pursuant to the discretion given me by the State of South Carolina General Assembly in S.C. Code Ann. §§ 38-5-130 and 38-2-10 (Supp. 2000), I hereby impose an administrative penalty on KPIC in the amount of \$2,000.

The amount of the administrative penalty was determined through negotiation and compromise, and was made in consideration of the corrective measures KPIC has taken to prevent this problem from recurring and its assurance that it will mail all future tax returns required by the Department several days prior to the due date to ensure delivery by the due date, whether premium taxes are shown by the return to be due or not. By the signature of its officer or authorized representative on this consent order, KPIC acknowledges that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§30-4-10, *et seq.* (1991 and Supp. 2000).

Therefore, it is hereby ordered that, within ten days of the date of my signature on this consent order, KPIC shall pay to the Department an administrative penalty in the total amount of

\$2,000. It is hereby acknowledged that payment of the \$2,000 administrative penalty was made by KPIC to the Department on or about May 15, 2001.

It is further ordered that a copy of this consent order shall be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective on the date of my signature as shown below.

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Kaiser Permanente Insurance Company

Dated this 57% day of June, 2001 in Columbia, South Carolina	Ernest N. Csiszar Director
Dated this <u>22<sup>nd</sup></u> day of June, 2001 in Oakland, California	I CONSENT:  Signature of Authorized Representative
	Kelly J. Walsh Typed Name
	<u>Controller</u> Title